

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte: CARL M. HOFFMASTER,  
DAVID K. TRUAX and TIMOTHY P. BEATON

Application No. 10/774,134



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 24, 2006. A review of the application has revealed that the application is not ready for review and consideration. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

INFORMATION DISCLOSURE STATEMENT

Appellant filed an Information Disclosure Statements (IDS) dated July 1, 2005 and March 6, 2006. There is no indication on the record that the above Information Disclosure Statements was considered by the Examiner. A written communication notifying appellant of the Examiner's consideration is required.

**EXAMINER'S ANSWER**

**Evidence of Record**

On February 7, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received November 17, 2005. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8), the examiner indicates no evidence of record was relied upon.

In accordance with MPEP §1207.02, the "Evidence Relied Upon" (section 8) should include:

**(8) Evidence Relied Upon**

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Correction of the record is required.

**CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the examiner for:

- 1) consideration and proper written response to the Information Disclosure Statements, dated July 1, 2005 and March 6, 2006, is required;
- 2) to notify appellants of such consideration;

- 3) issue a revised Examiner's Answer to include all required headings and content as set forth under 37 CFR § 41.37; and
- 5) for any further action as deemed appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



DALE M. SHAW  
Deputy Chief Appeals Administrator  
(571) 272-9797

DMS/dpv

Application No. 10/408,898

Jeffrey S. Bergman  
Osha-Liang, LLP  
1221 McKinney Street  
Suite 2800  
Houston, Texas 77010